



PATENT  
Docket No. 381092000720

#25  
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2-11-03

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Tami M. Procopio  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Terrance P. SNUTCH  
and David L. Baillie

Serial No.: 09/346,794

Filing Date: 2 July 1999

For: NOVEL HUMAN CALCIUM  
CHANNELS AND RELATED PROBES,  
CELL LINES AND METHODS

Examiner: Nirmal Singh Basi

Group Art Unit: 1646

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AMENDMENT UNDER 37 C.F.R. § 1.111

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This is in response to an Office action herein mailed 31 December 2002, time for response to which was set to expire 31 January 2003. Restriction was required.

Applicants hereby elect, provisionally, to prosecute claims wherein the relevant nucleic acid comprises SEQ. ID. No.: 23. This election is made with traverse.

The rationale for requiring election among groups III-V in the previously issued restriction requirement (4 October 2000) is not relevant in the context of the present claims. The claims to which this restriction requirement was applied were claims to the  $\alpha_1$  subunit encoding DNA *per se*, not to methods to identify compounds that agonize or antagonize such receptors. Therefore, the basis for the restriction requirement is quite different from that imposed herein. The three sequences set forth encode different subtypes of a T-type calcium ion channel and since the claims are drawn to a method to identify a compound which behaves as an agonist (or

antagonist) for a T-type calcium channel, any one of SEQ. ID. No.: 23, 25 and 27 would be satisfactory in the method. Each one of them generates a T-type calcium channel. The method does not change simply because one gene or another encoding, in each case, a T-type channel is used to generate the desired protein.

Further, applicants note that although the election is not to be treated as an election of species, the discussion in the Office action indicates a rejoinder should a generic claim be patentable. Applicants believe these paragraphs, which are appropriate to an election of species, are appropriate to the present situation as well. It is not believed that an undue burden is placed on the Office to examine the present claims that include all alternative subtypes of T-type channels. There are only three of these. As the Office is mandating reference to actual structures, there does not appear to be a way to formulate a generic claim that would include all of the  $\alpha_{1G}$ ,  $\alpha_{1H}$ , and  $\alpha_{1I}$  subunits in a single sequence designation.

Accordingly, applicants again provisionally elect the claims as they read on generation of the T-type channel from SEQ. ID. No.: 23 but request, respectfully, reconsideration of the restriction.

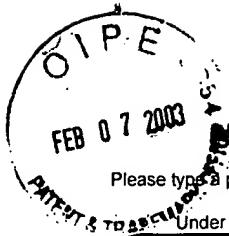
In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. **381092000720**.

Respectfully submitted,

Dated: January 31, 2003

By: Kate H. Murashige  
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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	09/346,794
		Filing Date	2 July 1999
		First Named Inventor	Terrance P. SNUTCH and David L. BAILLIE
		Group Art Unit	1646
		Examiner Name	N. S. Basi
Total Number Of Pages In This Submission	3	Attorney Docket No.	381092000720

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
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<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Kate H. Murashige, Reg No. 29,959 Morrison & Foerster LLP 3811 Valley Centre Drive, Suite 500, San Diego, California 92130
Signature	
Date	January 31, 2003

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Tami M. Procopio

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